

INITIAL STATEMENT OF REASONS

Financial Code Section 1223 states, in part, that “An obligation shall not be deemed secured by...collateral...unless...it has not been declared ineligible by the commissioner...” The Department’s licensees can not know what personal property is eligible as security unless they are provided a list of the personal property or the types of personal property the Commissioner declares to be ineligible. The proposed regulation provides such a list.

Licensees will be better able to serve their customers when the licensee has a comprehensive list of ineligible security. Currently, it is very difficult for licensees to know if they are in compliance with FC 1223 unless they receive specific departmental approval for every loan made. Therefore, a short comprehensive list of ineligible security will help reduce the administrative costs of the Department and of its licensees.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Department did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY’S REASONS FOR REJECTING THOSE ALTERNATIVES.

The alternatives to providing a list of ineligible security is to (1) provide a list of eligible collateral or to (2) have the licensee review every loan it wishes to advance pursuant to FC 1223 with a Department representative.

Alternative (1) should be rejected because a list of eligible security would not be consistent with the dictates of FC 1223. The code does not require that collateral be declared “eligible” by the Commissioner; it requires that the collateral not be declared “ineligible.” Therefore, the Commissioner must determine what is ineligible not what is eligible. Furthermore, it is inconceivable that the Commissioner could devise a comprehensive list of eligible personal property because, with new inventions, the list would be constantly increasing.

Alternative (2) should be rejected because it results in an inefficient use of time and resources for both the Department and its licensees. The licensee will be able to answer most questions regarding eligibility with the proposed short list of ineligible security.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION
THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Department has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE
ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS.

Given the small number of Department licensees affected by the proposed regulations, there will be no significant statewide adverse economic impact directly affecting business.